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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 09/782,017
Filing Date: February 14, 2001
Appellant(s): KAMIYA, HIROSHI

Ebenesar D. Thomas
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 15, 2008 appealing from the

Office action mailed January 8, 2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,578,014	MURCKO, JR	6-2003
4,926,325	BENTON	5-1990
6,314,406	O'HAGAN ET AL.	11-2001
6,405,174	WALKER ET AL.	6-2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

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Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1, 4, 7, 10, and 13-42 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent No. 6,578,014 to Murcko, Jr. in view of U.S. Patent

No. 4,926,325 to Benton et al.

Regarding claims 1, 4, 7, 10, and 37, Murcko discloses a commodity order issuing and accepting method, system and apparatus comprising:

- providing an order issuing device of electronic communications (buyer's interface, modem; Figure 1);

- providing an order accepting device capable of electronic communications (seller interface, modem; Figure 1);

- the requesting a first electronic document comprising first input fields for accepting order issuer information and for accepting commodity order issuance information except for an order issuer's payment date from said order accepting device (Figure 14; Buyer Registration Form; col. 23, line 46- col. 24, line 7; col. 22, line 28);

- the transmitting the first electronic document from the order accepter side to the order issuing device (Figure 14; Buyer Registration Form; col. 23, line 46- col. 24, line 7; col. 22, line 28);

- the inputting the order issuer information and the commodity order issuance information (Figure 14; Buyer Registration Form; col. 23, line 46- col. 24, line 7; col. 22, line 28);

- the transmitting the order issuer information and the commodity order issuance information except for said order issuer's payment date to said order accepting device (col. 23, line 61 – col. 24, line 2);

- the retrieving a transaction condition corresponding to the commodity order issuance information on the order accepting device (col. 22, lines 34-57);

- the transmitting a second electronic document on which the transaction condition is described and which has a second input field for said order issuer's payment date to said order issuing device (Figure 18); and

- wherein said second electronic document comprises information a formula for calculating a payment price based on the order issuer's payment date (payment date) (Figure 18. col. 16, lines 59-61; col. 27, lines 59-col. 28, line 14; Figure 17).

However, Murcko does not explicitly disclose inputting the order issuer's payment date and transmitting the order issuer's payment date. Murcko discloses payment date stores the date on which the buyer assigns the payment amount for this item (col. 16, lines 59-61). Furthermore in Figure 18, a payment date input field is shown, wherein the buyer sets the payment amount for an item, the date/time on which this happens will subsequently appear (col. 28, lines 26-30).

Benton, on the other hand, teaches the inputting the order issuer's payment date and transmitting the order issuer's (buyer) payment date (col. 9, lines 51-54; col. 16, lines 30-32; col. 16, lines 38-42). Benton teaches a system and method for carrying out funds data transfer between buyers and sellers in a common location, a local mode of operation, or at different locations in a remote mode (col. 2, lines 50-52; col. 2, lines 59-61). Benton further teaches the prompting of the buyer to enter the date and time of the proposed transaction (col. 16, lines 38-40). The buyer is prompted to enter the authorization code and transaction amount (col. 9, lines 42-44). The buyer is then prompted for a time and date after which the transaction is permitted to proceed (col. 9, lines 51-53).

Therefore, it would have been tr to one of ordinary skill in the art at the time of

the invention was made to modify the method, system, and apparatus of Murcko, to

include the inputting and transmitting of the order issuer's payment date, as taught by

Benton, in order to provide the buyer payment options (Benton col. 16, lines 30-33).

Regarding claims 13-20, Murcko substantially discloses the claimed invention,

however, it does not explicitly disclose the order issuer's payment date is a proposed

payment date and is manually entered by a user. Murcko discloses payment date

stores the date on which the buyer assigns the payment amount for this item (col. 16,

lines 59-61). Furthermore in Figure 18, a payment date input field is shown, wherein

the buyer sets the payment amount for an item, the date/time on which this happens will

subsequently appear (col. 28, lines 26-30).

Benton, on the other hand, teaches the order issuer's payment date is a

proposed payment date and is manually entered by a user (col. 9, lines 51-54; col. 16,

lines 30-32; col. 16, lines 38-42). Benton teaches a system and method for carrying out

funds data transfer between buyers and sellers in a common location, a local mode of

operation, or at different locations in a remote mode (col. 2, lines 50-52; col. 2, lines 59-

61). Benton further teaches the buyer to elect to carry out the transaction immediately

or prompting of the buyer to enter the date and time of the proposed transaction (col.

16, lines 38-40).

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention was made to modify the method, system, and apparatus of

Murcko, to include the order issuer's payment date is a proposed payment date and is

manually entered by a user, as taught by Benton, in order to provide the buyer payment

options (Benton col. 16, lines 30-33).

Regarding claims 21-32, Murcko discloses HTML format (col. 14, lines 62-63),

Internet (col. 3, lines 58-59), and a transaction condition is a formula related to a

commodity transaction (col. 27, line 57 – col. 28, line 14).

Regarding claims 33-36, Murcko discloses the order issuer's information is at

least one of an order's issuer's name, an order issuer's address and an order issuer's

telephone number (Figure 14).

Regarding claims 38-42, Murcko discloses the commodity order issuance

information is a commodity item (Figures 17-18; col. 27, lines 20-23).

Claims 2-3, 5-6, 8-9, and 11-12 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent No. 6,578,014 to Murcko, Jr. and U.S. Patent No.

4,926,325 to Benton et al. as applied to claims 1, 4, 7, and 10 above, and further in

view of U.S. Patent No. 6,314,406 to O'Hagan.

Regarding claims 2-3, 5-6, 8-9, and 11-12, Murcko and Benton substantially

discloses the claimed invention, however, the combination does not explicitly disclose

the calculating reduced price corresponding to the transaction condition; transmitting a

third electronic document on which the reduced price is described and which has means

for imputing an authentication to said order issuing device; activating the means for

inputting the authentication; and transmitting information representing that said means

for inputting the authentication has been activated to said order accepting device.

O'Hagan teaches calculating a reduced price corresponding to the transaction condition (col. 21, lines 15-16; Figure 32; col. 23, lines 42-52; col. 28, lines 45-50; col. 32, lines 1-3). O'Hagan further teaches transmitting a third electronic document on which the reduced price is described and which has means for imputing an authentication to said order issuing device; activating the means for inputting the authentication; and transmitting information representing that said means for inputting the authentication has been activated to said order accepting device (col. 17, lines 20-56; col. 28, lines 44-56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the combination, to include calculating a reduced price, as taught by O'Hagan, in order to obtain a discount on a product (O'Hagan, col. 1, lines 39).

Claims 43-47 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,578,014 to Murcko, Jr. and U.S. Patent No. 4,926,325 to Benton et al. as applied to claims 1, 4, 7, and 10 above, and further in view of U.S. Patent No. 6,405,174 to Walker et al.

Regarding claims 43-47, Murcko and Benton substantially discloses the claimed invention, however, the combination does not explicitly disclose a regular payment amount and a payment due date, the regular payment amount being due on the payment due date, and wherein the payment amount and the payment due date are determined by the order accepting device.

Walker, on the other hand, teaches the regular payment amount and the

payment due date, the regular payment amount being due on the payment due date,

and wherein the payment amount and the payment due date are determined by the

order accepting device (col. 7, lines 8-26)

Therefore, it would have been obvious to one of ordinary skill in the art at the

time of the invention was made to modify the combination, to include the regular

payment amount and the payment due date, as taught by Walker, to provide payment in

a timely manner.

(10) Response to Argument

Appellant remarks that Murcko and Benton do not disclose "wherein said second

electronic document comprises a formula for calculating a payment price based on said

order issuer's payment date". (Argument section, page 16, second paragraph)

Examiner does not agree. From the Final Office action mailed on January 7,

2008, Murcko discloses "wherein second electronic document comprises a formula for

calculating a payment price based on said order issuers' payment date". In col. 27,

lines 49-56, the buyer can specify an item request such as the buyer indicating that

he/she is willing to pay or an approximate amount or he/she can split between sellers

(col. 27, lines 50-55). The buyer can specify a cutoff percentile depending on the

sellers providing items and in response to item requests (col. 28, lines 1-4). A buyer

can make item request to specific sellers, he/she can only choose among those sellers

who are willing to accept item requests from buyers who meet the sellers' requirements,

such as the buyer having an average payment of at least a certain amount (col. 28,

lines 7-13). When the buyer sets the payment amount for an item, date and time

appears and buyer has a predetermined period of time in which to make a payment (col.

28, lines 26-30). The cutoff percentile stores the minimum percentile cutoff of eligible

sellers for a particular buyer. This is the value that the buyer has entered, indicating the

lowest acceptable percentile of sellers in terms of their average payments received for

items (col. 20, lines 15-21). The buyer has a predetermined amount of time after the

information is entered in which to assign the payment and a predetermined amount of

time in which to pay (col. 28, lines 31-35). If payment is late, the buyer pays an

additional fee (col. 28, lines 61-63). Before the late fee, the buyer is getting a reduced

price, thus does not qualify to pay that additional fee. Murcko discloses a payment

amount which stores the amount that the buyer decides to pay for the item and a

payment date which stores the date on which the buyer assigns the payment amount for

the item (col. 16, lines 58-61). Furthermore, Murcko discloses the buyer can optionally

provide guidance (Figure 17, ref. no. 1714) about what payment amount they might be

willing to pay for the desired item (col. 27, lines 65-67). Murcko also discloses a buyer

has the ability to change payment amounts that he/she previously assigned, up to the

time the payment is made; and a buyer can also raise a payment amount, but cannot

lower it, once it is initially sets (col. 29, lines 15-21). Murcko discloses the buyer and

sellers having the ability to optionally transact through traditional protocols such as

auction, negotiation, buyer sets price before transaction, and sellers sets price before

transaction (col. 29, lines 47-50).

Such buyer specifying a cutoff percentile depending on the sellers providing items and in response to item requests; cutoff percentile storing the minimum percentile cutoff of eligible sellers for a particular buyer, thus this value that the buyer has entered, indicates the lowest acceptable percentile of sellers in terms of their average payments received for items; buyer setting the payment amount for an item, date and time appears, wherein the buyer has a predetermined period of time in which to make a payment for that date; a payment amount which stores the amount that the buyer decides to pay for the item and a payment date which stores the date on which the buyer assigns the payment amount for the item; if payment is late, the buyers pay an additional fee; and buyer can optionally provide guidance about what payment amount they might be willing to pay for the desired item are considered "wherein second electronic document comprises a formula for calculating a payment price based on said order issuers' payment date".

Appellant remarks that "Benton, O'Hagan and Walker also do not disclose wherein said second electronic document comprises a formula for calculating a payment price based on said order issuer's payment date". (Argument section, page 19, second paragraph)

Examiner directs Appellant's attention to the discussion above.

Appellant remarks that "Murcko, Benton and O'Hagan do not disclose calculating a reduced price corresponding to said transaction condition and said order issuer's payment date on said order accepting device". (Argument section, page 20, first paragraph).

Examiner does not agree. From the Final Office action mailed on January 7,

2008, Murcko discloses "calculating a reduced price corresponding to said transaction

condition and said order issuer's payment date on said order accepting device". In col.

27, lines 49-56, the buyer can specify an item request such as the buyer indicating that

he/she is willing to pay or an approximate amount or he/she can split between sellers

(col. 27, lines 50-55). The buyer can specify a cutoff percentile depending on the

sellers providing items and in response to item requests (col. 28, lines 1-4). When the

buyer sets the payment amount for an item, date and time appears and buyer has a

predetermined period of time in which to make a payment (col. 28, lines 26-30). The

buyer has a predetermined amount of time after the information is entered in which to

assign the payment and a predetermined amount of time in which to pay (col. 28, lines

31-35). If payment is late, the buyer pays an additional fee (col. 28, lines 61-63).

Therefore if the buyer pays on or before the date, the buyer is getting a reduced price,

thus the buyer does not qualify to pay an additional fee. Murcko discloses a payment

amount which stores the amount that the buyer decides to pay for the item and a

payment date which stores the date on which the buyer assigns the payment amount for

the item (col. 16, lines 58-61).

Such buyer setting the payment amount for an item, date and time appears,

wherein the buyer has a predetermined period of time in which to make a payment for

that date; a payment amount which stores the amount that the buyer decides to pay for

the item and a payment date which stores the date on which the buyer assigns the

payment amount for the item; if payment is late, the buyer pays an additional fee,

therefore if the buyer pays on or before the date, the buyer is getting a reduced price,

thus the buyer does not qualify to pay an additional fee are considered "calculating a

reduced price corresponding to said transaction condition and said order issuer's

payment date on said order accepting device".

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the

Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted

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